



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,610	03/25/2004	Edward Frazee	03-260-PT-ISC	7231

32616 7590 04/04/2005

LAW OFFICE OF L. JACK GIBNEY  
4465 BAYMEADOWS RD. SUITE 2  
JACKSONVILLE, FL 32217

EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3671

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/809,610

**Applicant(s)**

FRAZEE ET AL.

**Examiner**

Christopher J. Novosad

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/25/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

The written description of the specification is objected to, in page 6, lines 35-39, in stating that “The bottom removal securing rod 400 gives the device stability at the bottom surface of the tractor blade and *rests against the bottom surface of the tractor blade*” (emphasis added). This statement is considered to be inconsistent with the drawing (Fig. 4) and claim 1. Figure 4, contrary to the written description, rather shows the securing rod 400 as resting against the *back surface* of the tractor blade 50. This essential structural feature, for securely maintaining the inventive device on the tractor blade, is further brought out in claim 1 wherein it is recited that “said means of attachment allows the device to be secured in place by *resting...the removable securing rod against the back surface of the tractor blade*” (emphasis added). Correction of the written description of the specification in this respect is required for consistency with the drawing (Fig. 4) and the claims.

The operation of the second embodiment of the bucket device described in page 8, and shown in Figure 5, is questioned, and the description thereof is not considered to be enabling. With the pins 700 of the bucket device merely resting against the lower front surface of the tractor blade 50, e.g. as shown in Fig. 5, it is not clear what structure keeps the bucket device secured to the blade such that the top rod 600 doesn't simply slide down the back side of the blade and completely disconnect from the blade, e.g. whenever the blade is raised during normal operation.

***Drawing Objection***

The drawings are objected to because claimed features are not shown. The drawing fails to show the use of “a nut and bolt” as recited in claim 15.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-15 are rejected under 35 USC 112, first paragraph, because the specification does not enable one of ordinary skill in the art to which it pertains, or with which it is most nearly connected, to use the invention.

Again, as noted above, the operation of the second embodiment of the bucket device (using “pins” 700) as described in page 8, and shown in Figure 5, is questioned, and the description thereof is not considered to be enabling. With the pins 700 of the bucket device merely resting against the lower *front* surface of the tractor blade 50, e.g. as shown in Fig. 5, it is not clear what structure keeps the bucket device secured to the blade such that the top rod 600 doesn’t simply slide down the back side of the blade and completely disconnect the bucket device from the blade, e.g. whenever the blade is raised during normal operation.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention.

In independent claim 1, lines 5 and 6 of the claim, and claim 8, lines 4 and 5 of the claim, the recitation of “the base plate” has no proper antecedent basis. Further, in claim 1, line 7 of the claim, and claim 8, line 6 of the claim, respectively, the recitation “the approximate height of a tractor blade” renders each of these claims indefinite. It is not clear what the height of “a tractor blade” is. Is this the same “tractor blade” recited earlier in each of the claims or another tractor blade? Clarification is required.

In claims 2, 3, 5, 6, 9, 10 and 13, line 1, respectively, the terms “they” and “it” render the claims indefinite since it is not clear what particular structure each of these terms is referring to in the respective claims. For example, in claims 2 and 3, the term “they” could be changed to --said angle clips--, and in claim 5, “it” could be corrected to --said top rod-- to avoid indefiniteness. Similar corrections could be made in the other claims to avoid indefiniteness.

In claim 7, the recitation “wherein cotter pins are used” is indefinite. It is not clear from the claim how or where the “cotter pins” are used.

In claims 14 and 15, the recitations “wherein pins are used” and “wherein a nut and bolt is used,” respectively, are indefinite because it is not clear how or where the “pins” and “a nut and bolt” are used in the claimed structure.

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

Art Unit: 3671

form the basis for the rejections under this section of this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 7, 8 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Long (USP 4,890,400).

Long discloses a device (bucket structure 20', Fig. 7) to be attached to the front of a tractor blade (snow blade 12) which comprises a base member (bottom 22), a top rod (90), end plates (24,26), angle clips (54,56), removable securing rod (pivot shaft 52', Figs. 7, 8), cotter pins (51, col. 5, lines 46-47) and a means of attachment (48', 47', 40', 38');

the end plates (24,26) are connected to the outside edge of the base plate (22) and extend vertically from the point of attachment the approximate height of a tractor blade (12);

the top rod (90) connects the topmost point of the end plates (24,26);

the means of attachment (48', 47', 40', 38', 52') allows the device to be secured in place by resting the top rod (90) over the top of the tractor blade (12) and the removable securing rod (52') against the back surface of the tractor blade (12).

Regarding independent claim 8, the reference to Long is applied in the same manner as to Claim 1 above, except the "pins" recited in claim 8, line 3 of the claim, are clearly met by the cotter pins (51, col. 5, lines 46-47) of Long.

With respect to claims 6 and 13, the end plates (24,26) of Long are "perpendicular to the bottom plate on both sides" as recited in these claims.

As to claims 7 and 14, Long (51, col. 5, lines 46-47) clearly discloses that "cotter pins are used" or that "pins are used" as recited in the respective claims.

Art Unit: 3671

Regarding claim 15, Long discloses the use of nuts and bolts (31,32,35,36, Figs. 2, 7, and col. 3, lines 20-25) for attaching the bucket structure to the blade by means of the angle clips or brackets 54, 56.

Claims 8, 13 and 14 are further rejected under 35 U.S.C. 102(b) as being anticipated by Fulton, III.

The reference (Fig. 3) discloses a device (30) to be attached to the front of a tractor blade (72) which comprises a base member (31), a top rod (19), end plates (32), angle clips (34,37), pins (52,55) and a means of attachment (58,51,53,54);

the end plates (32) are connected to the outside edge of the base plate (31) and extend vertically from the point of attachment the approximate height of a tractor blade (72);

the top rod (19) connects the topmost point of the end plates (32);

the means of attachment (58,51,53,54) allows the device to be secured in place by resting the top rod (19) over the top of the tractor blade (72) and the means for attachment against the back surface of the tractor blade (72).

With respect to claim 13, the end plates (32) are “perpendicular to the bottom plate on both sides” as recited in the claim.

With respect to claim 14, “pins” 52 and 55 “are used” as broadly called for in the claim.

#### ***Allowable Subject Matter***

Dependent claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

Art Unit: 3671

claim and any intervening claims, and if rewritten to overcome the rejection(s) under 35 U.S.C. 112, **second** paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad  
Primary Examiner  
Art Unit 3671

March 30, 2005